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SEC

SERVICE DATE - LATE RELEASE APRIL 18, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 766N)

CONRAIL ABANDONMENT OF THE WEEHAWKEN
BRANCH—IN HUDSON COUNTY, NJ

STB Docket No. AB-167 (Sub-No. 1067N)¹

CONRAIL ABANDONMENT OF THE RIVER
LINE—IN HUDSON COUNTY, NJ

Decided: April 18, 2001

Consolidated Rail Corporation (Conrail) filed two applications on November 14, 2000, under section 308 of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 748,² to abandon approximately 3.84 miles of the Weehawken Branch,³ 6.95 miles of the River Line,⁴ and

¹ These proceedings are not consolidated. They are being considered together because the two lines at issue are operated as a single line.

² Section 308 was added by the Northeast Rail Service Act of 1981 (NERSA), enacted as Subtitle E of the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35. NERSA established separate, expedited procedures for abandonments filed by Conrail.

³ The 3.84-mile segment of the Weehawken Branch extends from the point of switch in Jersey City, NJ, approximately MP 0.00, to the southerly R.O.W. line of Baldwin Avenue in Weehawken, NJ, approximately MP 2.84, and includes the former DL&W Railroad Lead to the Hoboken Freight Yard in Jersey City.

⁴ The 6.95-mile segment is composed of part of Conrail's River Line: (1) from the connection to the Passaic and Harismus Branch at Controller Point (CP) "Waldo" in Jersey City (approximately MP 0.00) to the south side of Clifton Road in Weehawken (approximately MP 4.7), including the River Yard; and (2) from the south side of Clifton Road in Weehawken (approximately MP 0.00) to the northwest side of Tonnelle Avenue (excluding the portion of line, associated track, and underlying right-of-way necessary to retain access and continue service to Durkee Foods) in North Bergen, NJ (approximately MP 1.53); plus the National Docks Secondary in Jersey City from where it connects with the River Line at CP "Nave," to the east side of Newark Avenue (approximately 1,350 feet); and the Weehawken Branch (Chicken Yard) in Weehawken, from where it connects with the River Line on the east side of Willow Avenue to
(continued...)

associated trackage in Hudson County, NJ. Subsequently, on February 12, 2001, the date the abandonments were to become effective, Cognis Corporation (Cognis), one of the lines' two active shippers, filed a timely offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 to subsidize and purchase the two lines (referred to as the River Line).

In a decision served on February 16, 2001, Cognis was found financially responsible and its OFA was found sufficiently reasonable to begin negotiations.⁵ The effective dates of the abandonments and the corresponding deadlines to request Board established terms and conditions for the subsidy and purchase of the River Line, were postponed to March 14, 2001. At Cognis' request, the deadline to request Board established terms and conditions was extended to April 13, 2001, in a decision served on March 13, 2001.

On Friday, April 13, 2001, Cognis filed, and served on Conrail, a request for the establishment of conditions and compensation for the subsidy and purchase of the River Line. Conrail filed a request to extend the time period to reply on April 17, 2001. Conrail states that, under 49 CFR 1152.27(g)(1), its reply is due on Wednesday, April 18, 2001, but that April 13, 2001, was a railroad holiday, and, as a consequence, it did not receive a copy of Cognis' request until Monday, April 16, 2001. Asserting that Cognis' request raises legal issues as opposed to the typical issues of cost and value, Conrail states that an extension to Monday, April 23, 2001, is necessary to permit the preparation of a meaningful reply.

Conrail notes that Cognis was granted a 30-day extension to file the request for conditions and compensation and otherwise states that none of the parties will be harmed by the requested extension. Specifically, Conrail states that it will not be able to fully abandon the River Line until related discontinuance exemptions are decided, see Norfolk Southern Railway Company—Discontinuance Exemption—in Hudson County, NJ, STB Docket No. AB-290 (Sub-No. 212X), and CSX Transportation, Inc.—Discontinuance Exemption—in Hudson County, NJ, STB Docket No. AB-55 (Sub-No. 584X), and that the Board's 30-day deadline for issuing a decision on conditions and compensation, 49 CFR 10904(f)(1)(A), may be extended if necessary by an exemption.

Conrail's request for an extension is reasonable and will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

⁴(...continued)
the end of the track (approximately 2,450 feet).

⁵ Cognis offered \$7,960 to subsidize the continued operation of the River Line for one year and the nominal sum of \$1 to purchase Conrail's interest at any time prior to the expiration of the subsidy period, with the purchase decision left to Cognis' sole discretion.

It is ordered:

1. The due date for Conrail to reply to Cognis' request for the establishment of conditions and compensation is extended to April 23, 2001.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary